

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN JOSEPH RICHT,

Plaintiff,

08-CV-03307 (DAB)(RLE)

-against-

ANSWER

THE LONG ISLAND RAILROAD COMPANY,

Defendant.

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S I R S :

Defendant, The Long Island Rail Road Company ("LIRR"), by its attorney, MARK D. HOFFER, answering the Complaint of plaintiff, alleges upon information and belief:

1. Admits each and every allegation contained in paragraphs "1", "2", "3", "4" and "5" of the Complaint.

2. Denies each and every allegation contained in paragraph "6" of the complaint, except admits that on or about October 9, 2007 and at all times hereinafter mentioned, the defendant maintained and controlled certain railroad operations which included the Flatbush Station located in Brooklyn, New York.

3. Denies each and every allegation contained in paragraphs "7", "8" and "10" of the Complaint.

4. Denies each and every allegation contained in paragraph "9" of the Complaint and refers questions of law to the Court for determination.

**DEFENDANT, FURTHER ANSWERING AND FOR A FIRST,
SEPARATE AND COMPLETE DEFENSE TO ALL CAUSES OF ACTION,
IF ANY, ALLEGED IN THE COMPLAINT HEREIN, ALLEGES:**

5. Upon information and belief, that if the plaintiff was injured as is alleged in the complaint, he was so injured in whole or in part by reason of his own negligence and without any fault or any negligence on the part of the defendant, its agents, servants and/or employees, and the defendant did not violate any statute or statutes enacted for the safety of its employees.

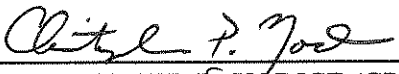
**DEFENDANT, FURTHER ANSWERING AND FOR A SECOND,
SEPARATE AND COMPLETE DEFENSE TO ALL CAUSES OF ACTION,
IF ANY, ALLEGED IN THE COMPLAINT HEREIN, ALLEGES:**

6. Plaintiff has failed, in his Complaint, to mitigate his alleged damages.

WHEREFORE, defendant, THE LONG ISLAND RAIL ROAD COMPANY, demands judgment dismissing the complaint herein together with costs and disbursements of this action.

Dated: Jamaica, New York
April 28, 2008

MARK D. HOFFER, ESQ.
Attorney for Defendant

BY: 
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TO: **FREDRIC M. GOLD, ESQ.**
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